

The Honorable Kymberly K. Evanson

UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

TAMIE JENSEN, individually and on behalf  
of all others similarly situated,

Plaintiff,

v.

CAPITAL ONE FINANCIAL  
CORPORATION,

Defendant.

CASE NO. 2:24-cv-00727-KKE

**STIPULATED PROTECTIVE ORDER**

1. PURPOSES AND LIMITATIONS

Discovery in this action is likely to involve production of confidential, proprietary, or private information for which special protection may be warranted. Accordingly, the parties hereby stipulate to and petition the court to enter the following Stipulated Protective Order. The parties acknowledge that this agreement is consistent with LCR 26(c). It does not confer blanket protection on all disclosures or responses to discovery, the protection it affords from public disclosure and use extends only to the limited information or items that are entitled to confidential treatment under the applicable legal principles, and it does not presumptively entitle parties to file confidential information under seal.

1 2. “CONFIDENTIAL” MATERIAL

2 “Confidential” material shall include the following documents and tangible things  
3 produced or otherwise exchanged:

- 4 (a) Documents containing financial information, medical information, or personal  
5 identifying information of the named plaintiffs, putative class members, or any  
6 other person, except where such financial information, medical information, or  
7 personal identifying information is publicly available. Such information includes,  
8 but is not limited to, addresses, email addresses, telephone numbers, social security  
9 numbers, credit card account information, bank account information, other  
10 financial account information, dates of birth, drivers’ license numbers, purchase  
11 history, and other similar personal information;
- 12 (b) Documents, discovery responses, and testimony reflecting confidential business  
13 information, including competitively sensitive information about Defendant’s  
14 marketing strategy, marketing plans, non-public market research, development of  
15 banking products and financial services, regulatory strategy, and data collection and  
16 analysis tools and efforts;
- 17 (c) Documents, discovery responses, and testimony reflecting personnel files and  
18 records containing sensitive employment information;
- 19 (d) Documents, discovery responses, and testimony reflecting customer lists and  
20 customer information;
- 21 (e) Documents, discovery responses, and testimony reflecting computer programming  
22 codes, software, or hardware;
- 23 (f) Documents, discovery responses, and testimony reflecting proprietary business  
24 processes
- 25 (g) Documents, discovery responses, and testimony reflecting internal financial data;
- 26 (h) Documents, discovery responses, and testimony reflecting confidential business

1 communications, including contracts and contract negotiations;

2 (i) Documents, discovery responses, and testimony reflecting tax records

3 (j) Confidential information of third parties

4  
5 3. SCOPE

6 The protections conferred by this agreement cover not only confidential material (as  
7 defined above), but also (1) any information copied or extracted from confidential material; (2) all  
8 copies, excerpts, summaries, or compilations of confidential material; and (3) any testimony,  
9 conversations, or presentations by parties or their counsel that might reveal confidential material.  
10 Further, the protections conferred by this Protective Order apply to both Confidential material  
11 produced by a party and Confidential material produced by a non-party in connection with this  
12 litigation.

13 However, the protections conferred by this agreement do not cover information that is in  
14 the public domain or becomes part of the public domain through trial or otherwise.

15 4. ACCESS TO AND USE OF CONFIDENTIAL MATERIAL

16 4.1 Basic Principles. A receiving party may use confidential material that is disclosed  
17 or produced by another party or by a non-party in connection with this case only for prosecuting,  
18 defending, or attempting to settle this litigation. Confidential material may be disclosed only to the  
19 categories of persons and under the conditions described in this agreement. Confidential material  
20 must be stored and maintained by a receiving party at a location and in a secure manner that ensures  
21 that access is limited to the persons authorized under this agreement.

22 4.2 Disclosure of "CONFIDENTIAL" Information or Items. Unless otherwise ordered  
23 by the court or permitted in writing by the designating party, a receiving party may disclose any  
24 confidential material only to:

25 (a) the receiving party's counsel of record in this action, as well as employees  
26 of counsel to whom it is reasonably necessary to disclose the information for this litigation;

1 (b) the officers, directors, and employees (including in-house counsel) of the  
2 receiving party to whom disclosure is reasonably necessary for this litigation, unless the parties  
3 (or the parties and a designating third-party) agree that a particular document or material produced  
4 is for Attorney's Eyes Only and is so designated;

5 (c) experts and consultants to whom disclosure is reasonably necessary for this  
6 litigation and who have signed the "Acknowledgment and Agreement to Be Bound" (Exhibit A);

7 (d) the court, court personnel, and court reporters and their staff, including this  
8 Court and any court exercising appellate jurisdiction over this action;

9 (e) any mediator and their staff, as mutually agreed by the parties engaged in  
10 settlement discussions;

11 (f) copy or imaging services retained by counsel to assist in the duplication of  
12 confidential material, provided that counsel for the party retaining the copy or imaging service  
13 instructs the service not to disclose any confidential material to third parties and to immediately  
14 return all originals and copies of any confidential material;

15 (g) during their depositions, witnesses in the action to whom disclosure is  
16 reasonably necessary and who have signed the "Acknowledgment and Agreement to Be Bound"  
17 (Exhibit A), unless otherwise agreed by the designating party or ordered by the court. Pages of  
18 transcribed deposition testimony or exhibits to depositions that reveal confidential material must  
19 be separately bound by the court reporter and may not be disclosed to anyone except as permitted  
20 under this agreement;

21 (h) employees or designated representatives of the producing party, as  
22 reasonably necessary to conduct depositions;

23 (i) the author or recipient of a document containing the information or a  
24 custodian or other person who otherwise possessed or knew the information.

25 4.3 Filing Confidential Material. Before filing confidential material or discussing or  
26 referencing such material in court filings, the filing party shall confer with the designating party, in

1 accordance with Local Civil Rule 5(g)(3)(A), to determine whether the designating party will  
2 remove the confidential designation, whether the document can be redacted, or whether a motion  
3 to seal or stipulation and proposed order is warranted. During the meet and confer process, the  
4 designating party must identify the basis for sealing the specific confidential information at issue,  
5 and the filing party shall include this basis in its motion to seal, along with any objection to sealing  
6 the information at issue. Local Civil Rule 5(g) sets forth the procedures that must be followed and  
7 the standards that will be applied when a party seeks permission from the court to file material  
8 under seal. A party who seeks to maintain the confidentiality of its information must satisfy the  
9 requirements of Local Civil Rule 5(g)(3)(B), even if it is not the party filing the motion to seal.  
10 Failure to satisfy this requirement will result in the motion to seal being denied, in accordance with  
11 the strong presumption of public access to the Court's files.

12 5. DESIGNATING PROTECTED MATERIAL

13 5.1 Exercise of Restraint and Care in Designating Material for Protection. Each party or  
14 non-party that designates information or items for protection under this agreement must take care  
15 to limit any such designation to specific material that qualifies under the appropriate standards. The  
16 designating party must designate for protection only those parts of material, documents, items, or  
17 oral or written communications that qualify, so that other portions of the material, documents, items,  
18 or communications for which protection is not warranted are not swept unjustifiably within the  
19 ambit of this agreement.

20 Mass, indiscriminate, or routinized designations are prohibited. Designations that are  
21 shown to be clearly unjustified or that have been made for an improper purpose (e.g., to  
22 unnecessarily encumber or delay the case development process or to impose unnecessary expenses  
23 and burdens on other parties) expose the designating party to sanctions.

24 If it comes to a designating party's attention that information or items that it designated for  
25 protection do not qualify for protection, the designating party must promptly notify all other parties  
26 that it is withdrawing the mistaken designation.

1           5.2    Manner and Timing of Designations. Except as otherwise provided in this agreement  
2 (see, *e.g.*, second paragraph of section 5.2(b) below), or as otherwise stipulated or ordered,  
3 disclosure or discovery material that qualifies for protection under this agreement must be clearly  
4 so designated before or when the material is disclosed or produced.

5                   (a)    Information in documentary form: (*e.g.*, paper or electronic documents and  
6 deposition exhibits, but excluding transcripts of depositions or other pretrial or trial proceedings),  
7 the designating party must affix the word “CONFIDENTIAL” to each page that contains  
8 confidential material. For electronic information produced in native format, such that it is  
9 impractical to affix the legend “CONFIDENTIAL” to each page (*e.g.*, excel files), the filename  
10 may contain the designation “CONFIDENTIAL” or the corresponding slipsheet may for the native  
11 file may contain the designation “CONFIDENTIAL.”

12                   (b)    Testimony given in deposition or in other pretrial proceedings: the parties  
13 and any participating non-parties must identify on the record, during the deposition or other pretrial  
14 proceeding, all protected testimony, without prejudice to their right to so designate other testimony  
15 after reviewing the transcript. Any party or non-party may, within fifteen days after receiving the  
16 transcript of the deposition or other pretrial proceeding, designate portions of the transcript, or  
17 exhibits thereto, as confidential. If a party or non-party desires to protect confidential information  
18 at trial, the issue should be addressed during the pre-trial conference.

19                   (c)    Other tangible items: the producing party must affix in a prominent place  
20 on the exterior of the container or containers in which the information or item is stored the word  
21 “CONFIDENTIAL.” If only a portion or portions of the information or item warrant protection,  
22 the producing party, to the extent practicable, shall identify the protected portion(s).

23           5.3    Inadvertent Failures to Designate. If timely corrected, an inadvertent failure to  
24 designate qualified information or items does not, standing alone, waive the designating party’s  
25 right to secure protection under this agreement for such material. Upon timely correction of a  
26 designation, the receiving party must make reasonable efforts to ensure that the material is treated

1 in accordance with the provisions of this agreement.

2 6. CHALLENGING CONFIDENTIALITY DESIGNATIONS

3 6.1 Timing of Challenges. Any party or non-party may challenge a designation of  
4 confidentiality at any time. Unless a prompt challenge to a designating party's confidentiality  
5 designation is necessary to avoid foreseeable, substantial unfairness, unnecessary economic  
6 burdens, or a significant disruption or delay of the litigation, a party does not waive its right to  
7 challenge a confidentiality designation by electing not to mount a challenge promptly after the  
8 original designation is disclosed.

9 6.2 Meet and Confer. The parties must make every attempt to resolve any dispute  
10 regarding confidential designations without court involvement. Any motion regarding confidential  
11 designations or for a protective order must include a certification, in the motion or in a declaration  
12 or affidavit, that the movant has engaged in a good faith meet and confer conference with other  
13 affected parties in an effort to resolve the dispute without court action. The certification must list  
14 the date, manner, and participants to the conference. A good faith effort to confer requires a face-  
15 to-face meeting or a telephone conference.

16 6.3 Judicial Intervention. If the parties cannot resolve a challenge without court  
17 intervention, the designating party may file and serve a motion to retain confidentiality under Local  
18 Civil Rule 7 (and in compliance with Local Civil Rule 5(g), if applicable). The burden of persuasion  
19 in any such motion shall be on the designating party. Frivolous challenges, and those made for an  
20 improper purpose (*e.g.*, to harass or impose unnecessary expenses and burdens on other parties)  
21 may expose the challenging party to sanctions. All parties shall continue to maintain the material  
22 in question as confidential until the court rules on the challenge.

23 7. PROTECTED MATERIAL SUBPOENAED OR ORDERED PRODUCED IN OTHER  
24 LITIGATION

25 If a party is served with a subpoena or a court order issued in other litigation that compels  
26 disclosure of any information or items designated in this action as "CONFIDENTIAL," that party

1 must:

2 (a) promptly notify the designating party in writing and include a copy of the  
3 subpoena or court order;

4 (b) promptly notify in writing the party who caused the subpoena or order to  
5 issue in the other litigation that some or all of the material covered by the subpoena or order is  
6 subject to this agreement. Such notification shall include a copy of this agreement; and

7 (c) cooperate with respect to all reasonable procedures sought to be pursued by  
8 the designating party whose confidential material may be affected.

9 If the Designating Party timely seeks a protective order, the Party served with the subpoena  
10 or court order shall not produce any information designated in this action as “CONFIDENTIAL”  
11 before a determination by an appropriate court, unless the Party has obtained the Designating  
12 Party’s permission. The Designating Party shall bear the burden and expense of seeking protection  
13 in that court of its confidential material.

14 Nothing in these provisions should be construed as authorizing or encouraging a Receiving Party  
15 in this Action to disobey a lawful directive from another court.

16 8. APPLICABILITY OF THIS STIPULATED PROTECTIVE ORDER TO NON-PARTIES

17 8.1 Order Applicable to Non-Parties. The terms of this Order are applicable to  
18 information produced by Non-Parties in the Action and designated as “CONFIDENTIAL.” Such  
19 information produced by Non-Parties in connection with this Action is protected by the remedies  
20 and relief provided by this Order.

21 8.2 Service of Order with Non-Party Discovery Request. The Party issuing any  
22 subpoena or other discovery request on any Non-Party in this Action shall include with any such  
23 subpoena or discovery request a copy of this Order.

24 8.3 Request to a Party Seeking Non-Party Confidential Information. In the event that a  
25 Party is required, by a valid discovery request, to produce a Non-Party’s confidential information  
26 in its possession, and the Party is subject to an agreement with the Non-Party not to produce the



1 Non-Party's confidential information, then the Party shall:

- 2 a. promptly notify in writing the Requesting Party and the Non-Party that  
3 some or all of the information requested is subject to a confidentiality agreement with a Non-Party;  
4 b. promptly provide the Non-Party with a copy of this Order, the relevant  
5 discovery request(s), and a reasonably specific description of the information requested; and  
6 c. make the information requested available for inspection by the Non-Party.

7 If the Non-Party fails to object or seek a protective order from this Court within 14 days of  
8 receiving the notice and accompanying information, the Party that received the discovery request  
9 may produce the Non-Party's responsive confidential information. If the Non-Party timely seeks  
10 a protective order, the Party that received the discovery request shall not produce any information  
11 in its possession or control that is subject to the confidentiality agreement with the Non-Party  
12 before a determination by the Court. Absent a court order to the contrary, the Non-Party shall bear  
13 the burden and expense of seeking protection in this Court of its Protected Material.  
14

15  
16 9. UNAUTHORIZED DISCLOSURE OF PROTECTED MATERIAL

17 If a receiving party learns that, by inadvertence or otherwise, it has disclosed confidential  
18 material to any person or in any circumstance not authorized under this agreement, the receiving  
19 party must immediately (a) notify in writing the designating party of the unauthorized disclosures,  
20 (b) use its best efforts to retrieve all unauthorized copies of the protected material, (c) inform the  
21 person or persons to whom unauthorized disclosures were made of all the terms of this agreement,  
22 and (d) request that such person or persons execute the "Acknowledgment and Agreement to Be  
23 Bound" that is attached hereto as Exhibit A.

24 10. NOTIFICATION IN THE EVENT OF A SECURITY BREACH OR UNAUTHORIZED  
25 ACCESS TO PRODUCED MATERIAL

1 If the Receiving Party discovers any breach of security that has resulted in the actual, or  
2 reasonably suspected, disclosure of confidential information, the Receiving Party shall:

3 (a) provide reasonably prompt written notice to Producing Party of such  
4 breach;

5 (b) investigate and make reasonable efforts to remediate the effects of the  
6 breach, and provide the Producing Party with assurances that such breach shall not recur;

7 (c) provide sufficient information about the breach that the Producing Party can  
8 reasonably ascertain the size and scope of the breach. The Receiving Party agrees to cooperate  
9 with the Producing Party or law enforcement in investigating any such security incident; and

10 (d) the Receiving Party shall promptly take all necessary and appropriate  
11 corrective action to terminate the unauthorized access and/or correct the breach.  
12

13  
14 11. INADVERTENT PRODUCTION OF PRIVILEGED OR OTHERWISE PROTECTED  
15 MATERIAL

16 When a producing party gives notice to receiving parties that certain inadvertently  
17 produced material is subject to a claim of privilege or other protection, the obligations of the  
18 receiving parties are those set forth in Federal Rule of Civil Procedure 26(b)(5)(B). This provision  
19 is not intended to modify whatever procedure may be established in an e-discovery order or  
20 agreement that provides for production without prior privilege review. The parties agree to the  
21 entry of a non-waiver order under Fed. R. Evid. 502(d) as set forth herein.

22 12. ARTIFICIAL INTELLIGENCE (GENERATIVE AI)

23 A Receiving Party shall not submit a Producing Party's Protected Material into any open  
24 generative AI tool that is available to the public. Before a Receiving Party submits the Producing  
25 Party's Protected Material to a closed generative AI tool, the Receiving Party shall make  
26 reasonably sure that it can delete all produced information from the tool at the end of the

1 Action. Receiving Party will be responsible for destroying such produced information from such  
2 tools at the end of the Action.

3 13. NON-TERMINATION AND RETURN OF DOCUMENTS

4 Within 60 days after the termination of this action, including all appeals, each receiving  
5 party must return all confidential material to the producing party, including all copies, extracts and  
6 summaries thereof. Alternatively, the receiving party may destroy or delete all physical or  
7 electronic copies.

8 Notwithstanding this provision, counsel are entitled to retain one archival copy of all  
9 documents filed with the court, trial, deposition, and hearing transcripts, correspondence,  
10 deposition and trial exhibits, expert reports, attorney work product, and consultant and expert work  
11 product, even if such materials contain confidential material.

12 The confidentiality obligations imposed by this agreement shall remain in effect until a  
13 designating party agrees otherwise in writing or a court orders otherwise.

IT IS SO STIPULATED, THROUGH COUNSEL OF RECORD.

DATED: April 11, 2025

/s/ Jonas Jacobson  
Dovel & Luner, LLP

Attorneys for Plaintiff

DATED: April 11, 2025

/s/ Aaron Brecher  
ORRICK, HERRINGTON & SUTCLIFFE  
LLP

Attorneys for Defendant

PURSUANT TO STIPULATION, IT IS SO ORDERED

IT IS FURTHER ORDERED that pursuant to Fed. R. Evid. 502(d), the production of any documents in this proceeding shall not, for the purposes of this proceeding or any other federal or state proceeding, constitute a waiver by the producing party of any privilege applicable to those documents, including the attorney-client privilege, attorney work-product protection, or any other privilege or protection recognized by law.

DATED: April 14, 2025



\_\_\_\_\_  
Kymberly K. Evanson  
United States District Judge

EXHIBIT A

ACKNOWLEDGMENT AND AGREEMENT TO BE BOUND

I, \_\_\_\_\_ [print or type full name], of  
\_\_\_\_\_ [print or type full address], declare under penalty of  
perjury that I have read in its entirety and understand the Stipulated Protective Order that was  
issued by the United States District Court for the Western District of Washington in the case of  
*Jensen v. Capital One Corporation*, Case No. 2:24-cv-00727-KKE. I agree to comply with and to  
be bound by all the terms of this Stipulated Protective Order and I understand and acknowledge  
that failure to so comply could expose me to sanctions and punishment in the nature of contempt.  
I solemnly promise that I will not disclose in any manner any information or item that is subject  
to this Stipulated Protective Order to any person or entity except in strict compliance with the  
provisions of this Order.

I further agree to submit to the jurisdiction of the United States District Court for the  
Western District of Washington for the purpose of enforcing the terms of this Stipulated Protective  
Order, even if such enforcement proceedings occur after termination of this action.

Date: \_\_\_\_\_

City and State where sworn and signed: \_\_\_\_\_

Printed name: \_\_\_\_\_

Signature: \_\_\_\_\_